

SECTION 12

GRIEVANCE - APPEAL PROCEDURE

12-1. Purpose. The purpose of this Section is to provide a process to hear, review, resolve and, if appropriate, remedy specified grievances of City employees. The City employees covered by this Section are full-and part-time non-probationary employees except for the employees defined in Section 10-3-1105 of the Utah code and Section 2.62.020(A) of the Murray City Municipal Code, as amended.

It is the intent of the process provided in this Section to resolve grievances at the lowest level of authority. Accordingly, a covered City employee must exhaust each step of the grievance process provided in Section 4 before proceeding to a hearing before the Personnel Advisory Board, the Mayor, or a State Court.

If a grievance is covered specifically by other ordinances, or policies, such as claims of discrimination, the procedures for the specific grievance shall be followed as defined in the applicable ordinance or policy.

12-2. Definitions.

Grievance. A grievance is defined as the written complaint of an employee to the respective Department Head or the Human Resources Director concerning a working condition which has allegedly caused an injury, injustice, or wrong to the employee. All grievances must be made in writing on an approved form and must state clearly the reasons for the grievance, the people directly involved, and a desired solution to the problem. After exhaustion of the grievance procedure outlined in Section 4 - steps 1, 2, and 3 - all grievances shall be heard by the Personnel Advisory Board including appeals involving discharge, suspension without pay of more than 2 days or 16 hours, or involuntary transfer from one position to another with less remuneration if properly and timely appealed by the employee under these Rules.

12-3. Protection and Representation.

- a. All covered City employees shall be assured freedom from restraint, interference, discrimination, or reprisal as a result of pursuing the procedures described in this Section.
- b. At each level of a grievance or appeal, employees may represent themselves or may be represented by one person of their own choosing.
- c. The Human Resources Director shall be responsible to ensure that all parties to any appeal or grievance are protected according to these Rules and that these Rules are observed. The Human Resources Department may also assist the parties concerned at any time to clarify policy, recommend solutions, or assist in clearing up misunderstandings.

12-4. Grievance Procedure. It is the policy of the City to adjust grievances of employees promptly and fairly and to do so within the framework of existing laws and these Rules. Every effort shall be made to adjust grievances in a manner mutually satisfactory to employees and management. Any employee who alleges inequitable treatment due to some employment condition may personally, or through a representative, seek relief from that condition. In any grievance including those involving discharge, suspension without pay for more than two (2) days or 16 hours, or involuntary transfer, the procedures in Section 12-5 shall be followed.

12-5. Appeals to the Personnel Advisory Board. The Personnel Advisory Board has jurisdiction to hear appeals from individuals or groups in matters arising from alleged discrimination, violations of City policy, matters pertaining to the establishment and maintenance of registers, examinations, examination ratings, removal from register, position classifications, and being put on probation. Any applicant, whose application for admission to an entrance examination has been denied due to a lack of minimum qualifications, may appeal that denial to the Personnel Advisory Board, which shall consider the appeal according to this Section. The Personnel Advisory Board's decision with respect to any such appeal shall be final. As provided in this Section, the Personnel Advisory Board has jurisdiction over appeals involving discharge, suspensions without pay, or transfer to a position for less remuneration. The Personnel Advisory Board shall be the appeal board provided under Section 10-3-1106 of the Utah Code. All appeals must be filed in writing on an approved form with the Department Head and the Human Resources Director.

Step 1. The employee shall complete and submit the grievance form to the employee's immediate supervisor and the Department Head within five (5) working days after the occurrence of the event which is the basis for the grievance. Within five (5) working days after receiving the grievance, the Department Head shall, after consultation with the employee's immediate supervisor, invite the employee to discuss the problem and the Department Head shall render a decision.

If the grievance involves the Department Head, the employee may bypass Step 1 and go directly to Step 2.

Step 2. If no satisfactory agreement is reached after Step 1, and it is necessary to carry the grievance further, the interested parties shall, within five (5) working days, submit the grievance form and request in writing a review by the Human Resources Director. The Human Resources Director may, if deemed necessary, conduct an investigation of the grievance. Within twenty (20) calendar days from receipt of the grievance, the Human Resources Director shall provide a recommendation to the employee's Department Head. The Department Head shall provide a decision to the employee within ten (10) calendar days from receipt of the recommendation by the Human Resources Director.

Step 3. If no satisfactory agreement is reached after Step 2 and it is necessary to carry the grievance further, the interested parties have the right to have the matter heard on appeal before the Personnel Advisory Board. The written grievance form shall be completed and forwarded to the Human Resources Director within five (5) working days from the date of the Department Heads final decision under Step 2.

Step 4. Within thirty (30) calendar days after receipt of a written request for a hearing on appeal, unless otherwise mutually extended in writing, the Personnel Advisory Board shall review the appeal and schedule and hold a hearing.

- a. The employee shall be entitled to appear in person and to be represented by counsel (at employee's expense), to have a hearing, confront witnesses whose testimony is to be considered and to examine the evidence to be considered by the Personnel Advisory Board.
- b. Each decision of the Personnel Advisory Board shall be certified with the City Recorder within twenty (20) calendar days from the date the matter is referred to it, except for good cause, the Personnel Advisory Board may extend the twenty (20) day period to a maximum of sixty (60) calendar days, if the employee and the Department Head both consent. The Personnel Advisory Board has the authority to uphold or reverse the decision of the Department Head. The Personnel Advisory Board does not have the authority to modify the decision of the Department Head. On review, the Personnel Advisory Board must decide whether the facts support the charges and whether the charges warrant the disciplinary sanction imposed. For appeals of discharge, suspension without pay or involuntary transfers, if the Personnel Advisory Board reverses the decision of the Department head, the employee shall be reinstated to the employee's position if employee was discharged and be reimbursed for all wages and benefits for the period of time during which the employee was discharged or suspended without pay; or any deficiency in salary for the period during which the employee was transferred to a position of less remuneration.
- c. A final action or order of the Personnel Advisory Board regarding a suspension without pay of more than two (2) days or 16 hours, a discharge or involuntary transfer may be appealed to the Utah Court of Appeals by filing with that court a notice of appeal. Each notice of appeal shall be filed within 30 calendar days after the issuance of the final action or order of the Personnel Advisory Board. For appeals of matters other than discharge, suspensions without pay of more than two (2) days or 16 hours or involuntary transfers the Personnel Advisory Board's decision is final.